

KCC 4981 (K-C 18,489)  
PATENTREMARKS

Claims 19-52 are canceled herein. Claims 1-18 will be pending upon entry of this amendment. This letter is responsive to the Office action dated October 31, 2005.

Response to Election/Restriction Requirement

Applicants hereby confirm the election of species 1, directed to claims 1-18, without traverse. Claims 19-52 are accordingly canceled herein without prejudice to the patentability of the claims.

Response to Rejection of ClaimsClaim 1

Claim 1 is directed to an absorbent article having a longitudinal axis, a lateral axis, opposite longitudinal end regions and a central region extending longitudinally between and interconnecting the end regions. The absorbent article comprises:

- an outer cover;

- a bodyside liner adapted for contiguous relationship with the wearer's skin; and

- an absorbent structure disposed between the bodyside liner and the outer cover, the absorbent structure being secured to at least one of the liner and the outer cover within a securement zone, the securement zone comprising a central portion disposed generally within the central region of the article and having an average width as determined by a Securement Zone Measurement Method, and at least one outer portion disposed longitudinally outward of the central portion

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of the securement zone and having an average width as determined by the Securement Zone Measurement Method, said average width of the central portion of the securement zone being substantially greater than said average width of the at least one outer portion of said securement zone.

As set forth in the present application, the term "securement zone" refers to a bounded area within which the absorbent structure is secured to the outer cover and/or the bodyside liner. See paragraph [0067]. That is, the securement zone is defined by the area over which the absorbent structure is secured to the outer cover and/or the bodyside liner, irrespective of the size of the absorbent structure relative to the outer cover and the liner. The essence of claim 1 is that the absorbent structure is secured to the outer cover and/or the bodyside liner within a central portion of the securement zone at the central region of the article and is also secured to the outer cover and/or bodyside liner within at least one outer portion of the securement zone longitudinally outward of the central portion of the securement zone. The average width of the central portion of the securement zone is greater than the average width of the at least one outer portion of the securement zone. As a result, a lesser amount of the outer cover and/or liner at the front and back regions of the article are bound by securement of the absorbent structure thereto against lateral (i.e., widthwise) stretching to allow a better fit of the article on its wearer.

Claim 1 is submitted to be unanticipated by and patentable over the references of record, and in particular U.S. Patent No. 6,695,827 (Chen et al.) in that whether considered alone or in combination the references fail to disclose or otherwise

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suggest an absorbent article in which the absorbent structure is secured to at least one of the outer cover and the bodyside line within a securement zone wherein a central portion of the securement zone at a central region of the article has an average width that is greater than an average width of an outer portion of the securement zone at a location longitudinally outward of the central portion of the securement zone.

Chen et al. disclose an absorbent article that is intended to have good body fit under dynamic conditions. With particular reference to the embodiment of Figs. 4, 5 and 9 of Chen et al., as relied upon by the Office, the absorbent article is a sanitary napkin 70 having a topsheet 85 (Fig. 5), a backsheet 82, and an outer absorbent member 74 therebetween and split longitudinally into two zones. A central absorbent member 78 is disposed between the two zones defined by the split outer absorbent member. A wicking barrier 71 has a vertical component 73 (Fig. 5), a horizontal component 73, and an underlying portion 75 beneath the central absorbent member 78. The central absorbent member 78 has a central shaping line 77 (depicted as a longitudinally extending slit, but could be a crease) so that the absorbent member 78 is deformed (e.g., folded or bent) upon being laterally compressed as illustrated in Fig. 9.

With reference to Fig. 9, a portion of the upper layer of absorbent material is attached to the backsheet at longitudinally spaced attachment points 91 to enhance longitudinal curl of the absorbent member "outside of the crotch region." See column 21, lines 48-52. That is, the attachment points 91 are disposed in the front region 97 or the back region 99 near, but not within the V-shaped elevated

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region of the central absorbent member 78. Column 21, lines 53-58.

Chen et al. fail to disclose or otherwise even suggest that the central absorbent member 78 (or the split outer absorbent member) is secured to the backsheet and/or the topsheet within a securement zone that has a central portion disposed within the central region of the article and has an average width that is greater than an average width of an outer portion of the securement zone longitudinally outward of the central portion of the securement zone. In fact, ***the absorbent member 78 of Chen et al. is not even adhered to the backsheet and/or the topsheet within the central or crotch region 92 of the article.*** Rather, as is expressly disclosed by Chen et al., the attachment points 91 are disposed only in the front and back regions 97, 99 of the article and there is no securement of the absorbent member 78 to the backsheet or topsheet in the central or crotch region 92. Column 21, lines 53-58. Indeed, if the central absorbent member 78 were attached to the backsheet at the crotch region 92 of the article the absorbent member 78 would not be able to bend into the V-shape illustrated in Fig. 9 of Chen et al. There is also no disclosure found anywhere in Chen et al. that the central absorbent member 78 may be secured to the topsheet.

Moreover, the attachment points 91 are illustrated in Fig. 9 of Chen et al. as being of a uniform shape and size and there is no disclosure to the contrary in Chen et al. Thus, even if the attachment points could be characterized as defining a securement zone having a central portion within the crotch region of the article of Chen et al. (and applicants submit that it cannot be characterized as such), such a securement

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zone would be of a uniform width along its length. That is, such a securement zone would not have a central portion that has an average width greater than an average width of an outer portion of the securement zone longitudinally outward of the central portion of the securement zone as recited in claim 1.

At page 4 of the Office action, the Office takes the position that the "[c]entral absorbent member 78 has an inherent width that is capable of being determined by the Securement Zone Measuring Method as set forth by Applicant. As can best be seen from Figure 4, the width of the central absorbent member 78 is substantially greater than that of each of the wicking portions 71." The Office's position with respect to the patentability of claim 1 in view of such a statement is unclear to applicants.

As best understood, it appears that the Office is merely comparing the width of the central absorbent member 78 to the width of the wicking portion 71. However, the securement zone recited in claim 1 relates to the area within which the recited absorbent structure is secured to the outer cover and/or the bodyside liner. It has nothing to do with the width of the absorbent structure relative to the width of the outer cover or the liner (or to the wicking members 71 of Chen et al.

For these reasons, claim 1 is submitted to be unanticipated by and patentable over Chen et al. and the other references of record.

Claims 2-18 depend directly or indirectly from claim 1 and are therefore submitted to be patentable over the references of record for the same reasons as claim 1.

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Claim 8 depends from claim 1 and further recites that: the securement zone comprises a pair of outer portions extending longitudinally outward of the central portion of said securement zone, one of said outer portions extending longitudinally toward one end of the absorbent article, the other outer portion extending longitudinally toward the opposite end of the absorbent article. Chen et al. clearly fail to disclose such a securement zone.

The Office action, at page 5 thereof, takes the position with respect to claim 8 that the wicking members 71 extend from one end of the napkin to the other. However, the wicking members 71 having nothing whatsoever to do with securement of the absorbent member 78 to the topsheet and/or backsheet of the article.

For these additional reasons, claim 8 is further submitted to be patentable over the references of record.

Claim 13

Claim 13 depends directly from claim 1 and further recites that the absorbent structure is secured to both the outer cover and the bodyside liner within the securement zone. There is no disclosure or suggestion found anywhere in Chen et al. that the central absorbent member 78 is secured to the topsheet 85. The Office, recognizing the lack of disclosure, "assumes" that the central absorbent member 78 is secured to the topsheet. This is tantamount to an inherency position. However, to establish inherency, the prior art "must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized

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by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient."<sup>1</sup>

Such evidence is clearly absent in this case. That is, there is no teaching provided by Chen et al. from which it can be said that the central absorbent member is necessarily secured to the bodyside liner. Moreover, contrary to the position set forth by the Office on page 5 of the Office action regarding claim 13, the shaping lines 77 are not formed of adhesive nor do they provide any adhesive effect. Rather, Chen et al. teach that these lines are formed by slits, perforations or other stiffness reducing means. See column 20, lines 42-51. Thus, there is no basis for asserting these lines necessarily result in the absorbent member 78 being secured to the topsheet of the article as assumed by the Office.

For these additional reasons, claim 13 is further submitted to be patentable over the references of record.

#### Claim 17

Claim 17 depends directly from claim 1 and further recites that the securement zone extends continuously generally from within one end region of said article through the central region to within the opposite end region of said article. Because the only securement of the absorbent member 78 of Chen et al. to the backsheet and/or topsheet is at the longitudinally spaced attachment points 91, Chen et al. cannot

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<sup>1</sup> M.P.E.P. §2112 citing *In re Robertson*, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999).

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have a securement zone that extends continuously from the front region through the central region into the back region.

At page 6 of the Office action, the Office asserts (with reference to Fig. 4 of Chen et al.) that an attachment zone is defined by the outer edges of the central absorbent member 78 and attachment points 91, which extend into both end regions of the napkin 70. However, there is no disclosure or even a suggestion found anywhere in Chen et al. that the central absorbent member 78 is secured to the backsheet and/or topsheet. Rather, the only disclosure by Chen et al. regarding securement of the absorbent member 78 to the topsheet or backsheet is the disclosure of the longitudinally spaced attachment points 91 at which the absorbent member is secured to the backsheet.

For these additional reasons, claim 17 is further submitted to be patentable over the references of record.

#### Claim 18

Claim 18 depends directly from claim 1 and further recites that the central portion of the securement zone is disposed longitudinally nearer to one end of the article than to the longitudinally opposite end of the article. To the extent that Chen et al. could be characterized as having a securement zone that includes a central portion within the central region of the article (and applicants reiterate that it cannot), Chen et al. teach only that the central absorbent member 78 is positioned longitudinally central within the article, and the attachment points 91 are equally spaced from the longitudinal ends of the article.



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The Office takes the position (at page 6 of the Office action) that because Chen et al. teach ranges for the distance between the outer edge of the absorbent member 78 and a longitudinal end of the napkin 70, the absorbent member is "capable" of being positioned nearer to one longitudinal end of the napkin. However, that the absorbent member is capable of such positioning is not tantamount to an express or even an inherent disclosure that Chen et al. teaches such positioning. A mere possibility of such positioning is insufficient. Rather, it must be a necessary result. While it may be possible to position the absorbent member 78 nearer to one end than to the other, such a position is clearly not a necessary result of the teachings of Chen et al.

For these additional reasons, claim 18 is further submitted to be patentable over the references of record.

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CONCLUSION

In view of the above, applicants respectfully request reconsideration and allowance of claims 1-18.

The Commissioner is hereby authorized to charge any fee deficiency in connection with this Amendment A to Deposit Account Number 19-1345 in the name of Senniger Powers.

Respectfully submitted,



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